

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1898 of 2005

Between:

M.Nook Raju, s/o Appanna, Officer, JMGS I
Andhra Bank, Thokada Branch (Village) East Godavari District.

..... PETITIONER

AND

UOI rep., by its

1. The Deputy General Manager (Personnel) Department,
Andhra Bank (Head Office) Dr.Pathabhi Bhavan, Saifabad, Hyderabad.
- 2 The Deputy General Manager, Andhra Bank (Zonal Office)
Dr.Jogarao Complex Opp.Town Hall, Kakinada, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or direction by setting aside the impugned suspension order No.677/20/V/408 dated 16-5-2003 of respondent 1 as illegal, arbitrary not only violation of rules but also against the principles of natural justice under Art.14 and 16 of the Constitution of India and pass such other order/orders as deem fit and proper in the interest of principles of natural justice.

Counsel for the Petitioner: MR.G.SANYASI RAO

Counsel for the Respondents: MR.NUTY RAM MOHAN RAO

The Court, at the admission stage, made the following :

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ORAL ORDER:

This writ petition is filed seeking a Mandamus to declare the action of the 1st respondent in passing the suspension order No.677/20/V/408, dated 16.5.2003 as arbitrary and illegal and to set aside the same.

On the ground of accepting the bribe, the Central Bureau of Investigation (C.B.I.), Visakhapatnam registered a case against the petitioner and consequently he was placed under suspension by proceedings dated 16.5.2003. Challenging the same, this writ petition has been filed.

Heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner has vehemently contended that the suspension cannot be continued for an indefinite period and for the last two years no enquiry has been conducted and hence, the suspension order may be revoked.

On the other hand, the learned counsel for the respondents has filed a detailed counter stating that in view of the gravity of the charge of demanding and accepting bribe by the petitioner, the disciplinary

authority was compelled to place the petitioner under suspension. The truth or otherwise of the charge against the petitioner can only be decided by the Court after trial. The C.B.I already filed a charge sheet on 1.3.2004. Hence, he prays to dismiss the petition.

The learned counsel for the respondents has contended that since the trial to be let in, in both the cases is one and the same, the departmental enquiry cannot be proceeded further, but the case of the petitioner is being reviewed for every three months and therefore, it is not a case of prolonged suspension.

The learned counsel for the petitioner has placed strong reliance on the decision reported in **K.VENUGOPAL REDDY Vs. MANAGING DIRECTOR, NIZAM SUGARS LTD., HYDERABAD** wherein it is held to the following effect:

“It is well settled law that a Government Employee cannot be kept under suspension for an indefinite period. And it is also settled position in law that if the enquiry could not be completed for any reasons, the employee cannot be kept under suspension ad infinitum.”

He also relied upon another judgment reported in **GUMAN SINGH BARATH Vs. STATE OF RAJASTHAN AND OTHERS**, wherein it is held as under:

“The fact-situation herein does not permit suspension ad infinitum.”

There is no dispute with regard to the proposition of law laid down in the aforementioned decisions that a suspension cannot be continued for an indefinite period or *ad infinitum*. The reason for not proceeding with departmental enquiry is that the same set of allegations is levelled against the petitioner in the criminal case also, and the respondents could not proceed against the petitioner departmentally. Now, the present stage of the case is that C.B.I filed a charge sheet against the writ petitioner on 1.3.2004 and the respondents are awaiting the result of the criminal case. Since the charge in both the criminal case and the departmental case appears to be on the same set of allegations, necessarily the respondents

have to wait till the disposal of the criminal case. Further more, the case of the petitioner is being reviewed from time to time. According to the learned counsel for the petitioner, on 31.12.2004, the petitioner's case was reviewed and suspension order is being extended from time to time. Therefore, it is not a case of indefinite period of suspension wantonly or deliberately by the respondents. Hence, there are no grounds to interfere with the suspension order. Therefore, I do not find any merit in this writ petition, which is liable to be dismissed.

Accordingly, the writ petition is dismissed. In the circumstances of the case, there shall be no order as to costs.

(K.C. BHANU, J.)

9th March, 2005.

bcj

To

- 1 The Deputy General Manager (Personnel) Department,
Andhra Bank (Head Office) Dr.Pathabhi Bhavan, Saifabad, Hyderabad.
- 2 The Deputy General Manager, Andhra Bank (Zonal Office)
Dr.Jogarao Complex Opp.Town Hall, Kakinada, E.G.District.

3 Two C.D. copies.